No. 15-0303

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Nov 03, 2016
DEBORAH S. HUNT, Clerk

NATIONAL HOLDINGS CORPORATION, dba National Securities,

Petitioner.

ORDER

Before: MOORE, GIBBONS, and GRIFFIN, Circuit Judges.

Philip Charvat filed suit against National Holdings Corporation, on behalf of himself and others similarly situated, alleging violations of the consumer-privacy provisions under the Telephone Consumer Protection Act. National Holdings moved to dismiss his complaint for lack of subject matter jurisdiction following its full offer of judgment to Charvat under Federal Rule of Civil Procedure 68. The district court denied the motion because Charvat had demanded class-action relief in his complaint, but certified its order for immediate appeal under 28 U.S.C. § 1292(b). National Holdings petitions this court for permission to appeal. Charvat has not responded to the petition. Given intervening opinions from both the Supreme Court and this court, National Holdings cannot meet the criteria supporting an immediate appeal. *See Campbell-Ewald Co. v. Gomez,* 136 S. Ct. 663, 670 (2016); *Mey v. N. Am. Bancard, LLC,* No. 14-2574, ___ F. App'x ___, 2016 WL 3613395, at *3−4 (6th Cir. July 6, 2016).

The petition for permission to appeal is **DENIED**.

ENTERED BY ORDER OF THE COURT

Deborah S. Hunt, Clerk

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

Deborah S. Hunt
Clerk

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Filed: November 03, 2016

Mr. Joseph Edward Ezzie

Mr. Rand L. McClellan

Mr. Brian K. Murphy

Mr. Andrew Evan Samuels

Re: Case No. 15-303, *In re: National Holdings Corp*
Originating Case No. : 2:14-cv-02205

Dear Counsel,

The Court issued the enclosed Order today in this case.

Sincerely yours,

s/Louise Schwarber
Case Manager
Direct Dial No. 513-564-7015

cc: Mr. Richard W. Nagel

Enclosure

No mandate to issue